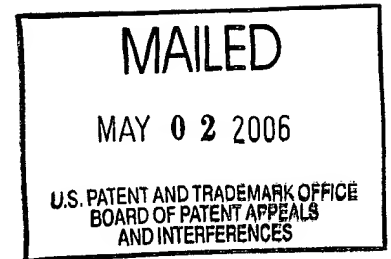


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID B. KUMHYR
and
MARGARET GARDNER

Application 09/996,130



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on April 11, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matter requiring attention prior to docketing is identified below:

A review of the Image File Wrapper (IFW) indicates that appellants filed an Appeal Brief on September 9, 2005. The examiner acknowledged the Appeal Brief in an Examiner's Answer mailed on October 26, 2005. Section 1207.02 of the Manual of

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Patent Examining Procedure (MPEP) (8th Ed., Rev. 3, August 2005)

states:

Requirements for Examiner's Answer

The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

.

(8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

It is noted that while the Examiner's Answer states that "[n]o evidence is relied upon by the examiner in the rejection of the claims under appeal" [page 2 under the caption "Evidence Relied Upon"], the claim rejection is listed as follows:

1. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz (U.S. Patent No. 6,029,195) in view of Jacobs et al. (U.S. Patent No. 6,789,170, hereafter referred to as Jacobs) [page 3].

Correction is required.

Accordingly, it is

ORDERED that the application is returned to the

Examiner:

1) to submit a revised Examiner's Answer which corrects the "Evidence Relied Upon" section; and

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2) for such further action as may be appropriate.

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AND INTERFERENCES

By:

A handwritten signature in black ink, appearing to read "DMS", followed by a horizontal line.

DALE M. SHAW

Program and Resource Administrator
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DMS/psb

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